

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GLEND A JOHNSON ET AL.,

Plaintiffs,

V.

SMITHKLINE BEECHAM CORPORATION  
ET AL.,

Defendants.

Case No. 2:11-cv-05782-PD  
and all related cases

# **PROCEDURAL MEMORANDUM AND ORDER OF THE SPECIAL DISCOVERY MASTER**

# MEMORANDUM

By Order of March 14, 2016, Dkt. 532, the District Court ordered me to issue a Report and Recommendation respecting the motions of Hagens Berman Sobel Shapiro LLC (“Hagens Berman”) to withdraw as counsel for Plaintiffs John Marshall, Jose Navamuel, Terrie Bolton, John Skelton, III, Richard Anderson, and Mary Sells, respectively (Dkts. 207, 301, 342, 343, 375, 382).

To avoid invasion or waiver of privilege, my inquiries into dealings between Hagens Berman and the six Plaintiffs will be conducted in camera. And although I have no doubt concerning my discretion to proceed in camera, and to exclude Defendants from this particular inquiry, I am sure Hagens Berman and the six Plaintiffs would prefer that the Defendants affirmatively waive any objection to my proceeding in this manner (*cf., e.g., Sharp v. Verizon Delaware Inc.*, No. CIV. A. 11-1209-RGA, 2012 WL 6212615, at \*1 n. 1 (D. Del. Dec. 12, 2012)). Accordingly, I will order Defendants to advise the Court on that question.

I anticipate communicating directly with the six Plaintiffs in connection with the in camera proceedings. Hagens Berman should send me its most recent and accurate contact information for each of the six plaintiffs: name, mailing address, telephone number, and email address. Hagens Berman should also send copies of this Memorandum and Order to each of the six, and confirm to me that it has done so.

It is, of course, Hagens Berman's burden to show why the District Court should grant the motions. To enable Hagens Berman to address that burden, I must afford the firm and its affected lawyers an opportunity (i) to flesh out their invocation of Pa. R.P.C. 1.16(a)(1) – the assertion that “professional considerations require that Plaintiffs’ counsel withdraw as [Plaintiffs Marshall, Navamuel, Bolton, Skelton, Anderson and Sells’] counsel under Rule 1.16(a)(1)”;<sup>1</sup> (ii) to establish that the firm was unaware of the problem when it filed its clients’ Complaints; (iii) to explain how the firm learned of the problem; and (iv) to explain the failure to know about it earlier.

If Hagens Berman and its lawyers prefer to submit this information in writing in the first instance, that is agreeable. Any written submissions should be supported by affidavits or declarations under penalty of perjury. They should be filed under seal with an unsealed copy to me, and will be accessible only by the Court. However, I do reserve my right to disclose them to and discuss them with the affected Plaintiffs. If Hagens Berman prefers not to submit written information, we will proceed directly to an in camera evidentiary hearing. I caution the Hagens Berman lawyers and the six Plaintiffs that I am very likely to require examination of the Hagens Berman lawyers, probably in open court, regardless of whether written materials are submitted.

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<sup>1</sup> *E.g.*, Dkt. 342-1, Memorandum of Law in Support of Plaintiffs’ Counsel’s Motion to Withdraw as Counsel for Plaintiff Terrie Bolton at 1-2; Declaration of Tyler Weaver, Dkt. 342-2, ¶¶ 2,3.

Similarly, it seems unlikely at this early date that I will be in a position to recommend granting the withdrawal motions without entertaining live, sworn testimony from the affected Plaintiffs, but I am not deciding that issue at this time.

Counsel were not consulted regarding the deadlines set by the following Order. If any date seems unreasonable or creates a hardship, I will consider alternative dates.

**ORDER**

1. On or before Monday, November 28, 2016, Hagens Berman Sobel Shapiro LLC (“Hagens Berman”) will confirm to the Special Discovery Master that it has distributed copies of this Memorandum and Order to Plaintiffs John Marshall, Jose Navamuel, Terrie Bolton, John Skelton, III, Richard Anderson, and Mary Sells.

2. On or before Monday, November 28, 2016, Hagens Berman will supply its most current and accurate contact information for each of the aforementioned Plaintiffs to the Special Discovery Master.

3. On or before Monday, November 28, 2016, Hagens Berman will inform the Special Master whether it wishes to submit any writing in support of the Motions that are the subject of the accompanying Memorandum.

4. On or before Friday, December 2, 2016, each Defendant will serve and file a statement either waiving or declining to waive participation in and discovery into the in camera review and proceedings addressed in the accompanying Memorandum.

5. On or before Monday, December 12, 2016, Hagens Berman will submit any writings and documents in support of the Motions that are the subject of the accompanying Memorandum.

**6.** All filings by Hagens Berman or any of the aforementioned Plaintiffs shall be made under seal, with unsealed copy only to the Special Discovery Master. All hearings shall be transcribed and filed under seal with the Clerk of Court, and shall be accessible only by the Court.

November 17, 2016

/s/ William T. Hangley  
WILLIAM T. HANGLEY  
SPECIAL DISCOVERY MASTER